



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Cricket property management and [tenant
name suppressed to protect privacy]

DECISION

Dispute Codes: FFL MNRL

Introduction

This hearing dealt with the landlords' application pursuant to the *Residential Tenancy Act* ("the *Act*") for:

- a monetary order for money owed or compensation for monetary loss or money owed under the *Act*, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover the filing fee for this application, pursuant to section 72.

While the landlords attended the hearing by way of conference call, the respondents did not. I waited until 1:40 p.m. to enable the tenants to participate in this scheduled hearing for 1:30 p.m. The landlord was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the landlords and I were the only one who had called into this teleconference.

The landlords were clearly informed of the RTB Rules of Procedure Rule 6.11 which prohibits the recording of a dispute resolution hearing. The landlords confirmed that they understood.

The landlords gave sworn testimony that they had served the respondents by email on May 28, 2021. In accordance with section 88, 89, and 90 of the *Act*, I find the respondents deemed served with the packages three days after service.

Preliminary Issue: Do I Have Jurisdiction To Hear This Matter?

The applicants in this matter confirmed that they had filed this application to recover unpaid rent from the property management company that they had hired, as named in this application as CPM. The other party is one of the tenants, who currently still resides in the rental unit.

The landlords testified that the original tenancy agreement began on February 1, 2021, with monthly rent set at \$1,300.00, payable on the first of the month. The landlords' property management company, CPM, was responsible for collecting the monthly rent of \$1,300.00. CPM would keep \$100.00 as a fee for their services, and would transfer to the landlords the remaining \$1,200.00.

The landlords testified that even although the tenants had paid the rent of \$1,300.00 for the months of April and May 2021 to CPM, CPM failed to transfer any of the rent to the landlords. The landlords testified that they ultimately ended their relationship with CPM, and signed a new tenancy agreement with the tenants directly, with monthly rent now set at \$1,250.00 per month, and paid directly to the landlords by the tenants. The landlords testified that the tenants have been paying the monthly rent as required.

The landlords are seeking a monetary order from CPM for the outstanding rent for the months of April and May 2021.

Analysis

The definitions of a "tenancy" and a "tenancy agreement" are outlined in the following terms in section 1 of the *Act*:

"tenancy" means a tenant's right to possession of a rental unit under a tenancy agreement;

"tenancy agreement" means an agreement, whether written or oral, express or implied, between a landlord and a tenant respecting possession of a rental unit, use of common areas and services and facilities, and includes a license to occupy a rental unit.

In light of the testimony and evidence before me, I do not find that a tenancy exists between CPM and the landlords. I find that CPM was a property management company hired by the landlords, who provided services such as collecting the monthly rent from the tenants. Although a dispute does exist between CPM and the landlords in terms of money owed, I do not find that a tenancy exists between CPM and the landlords, and therefore I am unable to consider the application as I have no jurisdiction to consider this matter.

Although the landlords did name the tenants as a respondent in this dispute, after clarifying the issues in this application, I am not satisfied that the named tenant owes the landlord any unpaid rent. Accordingly, I dismiss the landlords' claim for unpaid rent against JS with leave to reapply.

The filing fee is a discretionary award issued by an Arbitrator usually after a hearing is held and the applicant is successful on the merits of the application. As the landlords were not successful with their application, I find that the landlords are not entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

I find that I have no jurisdiction to consider the dispute between CPM and the landlords.

I dismiss the landlords' claim for unpaid rent against JS with leave to reapply.

I dismiss the landlords' application to recover the filing fee without leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: November 19, 2021

Residential Tenancy Branch